



Agenda Date: 09/12/07
Agenda Item: III A

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

CABLE TELEVISION

IN THE MATTER OF THE PETITION OF COMCAST OF) RENEWAL
NEW JERSEY II, LLC FOR A RENEWAL CERTIFICATE OF) CERTIFICATE OF APPROVAL
APPROVAL TO CONTINUE TO CONSTRUCT, OPERATE)
AND MAINTAIN A CABLE TELEVISION SYSTEM IN AND)
FOR THE TOWNSHIP OF LIVINGSTON, COUNTY OF)
ESSEX, STATE OF NEW JERSEY) DOCKET NO. CE07050344

SERVICE LIST ATTACHED

BY THE BOARD:

On October 10, 1974, the Board of Public Utilities ("Board") granted Suburban Cablevision a Certificate of Approval in Docket No. 744C-6020 for the construction, operation and maintenance of a cable television system in the Township of Livingston ("Township"). Through a series of transfers, with the required Board approvals, the current holder of the Certificate is Comcast Cablevision of New Jersey II, LLC ("Comcast"). On March 28, 1996, the Board granted Comcast a Renewal Certificate of Approval for the Township in Docket No. CE96010031. Through a series of transfers, with the required Board approvals, the current holder of the Certificate is Comcast of New Jersey II, LLC ("Petitioner"). Although by its terms the Petitioner's above referenced Certificate expired on October 10, 2004, the Petitioner is authorized to continue to provide cable television service to the Township pursuant to N.J.S.A. 48:5A-25, pending disposition of proceedings regarding the renewal of its Certificate of Approval.

The Petitioner filed an application for the renewal of its municipal consent with the Township on January 8, 2004, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13. The Township, after public hearing, adopted a municipal ordinance granting renewal consent to the Petitioner on August 8, 2005.

On September 15, 2005, pursuant to N.J.S.A. 48:5A-17(d), the Petitioner filed a petition with the Board for a renewal of its Certificate of Approval for the Township in Docket No. CE05090799. The Petitioner alleged that the Township's actions in adopting an ordinance it did not agree to were arbitrary and capricious. The Township filed an answer to the petition on October 4, 2005. A pretransmittal settlement conference was held on November 30, 2005, in accordance with N.J.A.C. 14:17-8.1 et seq., but no settlement could be reached.

On February 8, 2006, the Board transmitted the case to the Office of Administrative Law ("OAL") for hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. . The case was assigned to Administrative Law Judge ("ALJ") Barry N. Frank, who held a prehearing conference on April 26, 1996, and on January 16, 2007, the Petitioner filed a motion for summary judgment. Subsequently, the parties reached a settlement that disposed of the matters in contention and on March 19, 2007, the Township adopted an amended ordinance granting renewal municipal consent to the Petitioner, formalizing the settlement reached by the parties. On April 2, 2007, the Petitioner formally accepted the terms and conditions of the ordinance. On May 3, 2007, by notice to the Board and the OAL, the Petitioner withdrew its petition filed in Docket No. CE05090799.

On May 22, 2007, pursuant to N.J.S.A. 48:5A-16, the Petitioner filed with the Board for a renewal of its Certificate of Approval for the Township based on the revised March 19, 2007 ordinance. The Board has reviewed the application for municipal consent, the petition for a Renewal Certificate of Approval and the revised municipal consent ordinance. Based upon this review and the recommendation of the Office of Cable Television, the Board **HEREBY FINDS** the following:

1. The Petitioner possesses the requisite legal, character, financial and technical qualifications for the awarding of a Renewal Certificate of Approval. Further, the Township reviewed these qualifications in conjunction with the municipal consent process.
2. The design and technical specifications of the system will ensure that the Petitioner provides safe, adequate and proper service.
3. The Petitioner has represented that all previously required construction within the franchise territory is complete.
4. The franchise period as stated in the ordinance is 15 years from the date of issuance of this Certificate. The Board finds this period to be of reasonable duration.
5. The Township may review the performance of the Petitioner with regard to the ordinance at its discretion. If the Township determines that the Petitioner has failed to substantially comply with the material terms and conditions of the ordinance, the Township shall provide written notice to the Petitioner of such alleged instances of non-compliance, and shall grant the Petitioner 90 days to cure such deficiency. The Township may petition the Board for appropriate administrative action, including revocation of the franchise or reduction of the franchise term, but only after the 90-day opportunity to cure has passed and the deficiency has not been cured.
6. The Petitioner's rates shall be regulated and tariffs shall be filed for all services, in accordance with the rules and regulations of the Federal Communications Commission, the Board and the Office of Cable Television. The Petitioner shall maintain an informational schedule of prices, terms and conditions for unregulated service, and promptly file any revisions thereto.

7. Pursuant to statutory requirements, the ordinance specifies a complaint officer to receive and act upon complaints filed by subscribers in the Township. In this case, it is the Office of Cable Television. All complaints shall be received and processed in accordance with the applicable rules.
8. The Petitioner shall maintain a local business office for the purpose of receiving, investigating and resolving complaints. Currently, the local business office serving this provision is located at 800 Rahway Avenue in Union, New Jersey. The Petitioner also maintains a customer service office at 257 Prospect Avenue in West Orange, New Jersey.
9. The franchise fee to be paid to the Township is specified to be 2% of the Petitioner's gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service in the Township and may be increased as required by N.J.S.A. 48:5A-30. Additional regulatory fees shall be paid to the State in an amount not to exceed 2% of Petitioner's gross operating revenues derived from intrastate operations unless such amount is increased as required by N.J.S.A. 48:5A-30. The Board finds these fees to be reasonable.
10. The Petitioner shall provide service to all currently served streets ("Primary Service Area") at no cost beyond standard and non-standard installation charges as indicated on the map on file with the Office of Cable Television. For any extension outside of the Primary Service Area, the Petitioner shall utilize the line extension policy ("LEP") attached to the Certificate. The minimum homes per mile figure is 35.
11. The Petitioner shall provide public, educational and governmental access channels and facilities in accordance with its renewal application and the ordinance. Specifically, Petitioner shall maintain one dedicated local access channel for the purpose of cablecasting non-commercial access programming. The Petitioner shall also maintain a system-wide public access channel for use by qualified individuals and organizations in the municipalities served by the Petitioner's system.
12. The Petitioner shall, at its sole expense, continue to maintain the existing fiber optic return line from the Township's high school, and install and maintain a second fiber optic return line with transmitter, receiver and monitor outlet from a second origination point in the Township that is within 200 feet of activated cable television plant.
13. Upon demonstration by the Township that over a period of 26 weeks utilization of the first access channel exceeds 80 hours per week of non-duplicated, non-commercial, first-run, locally produced, full motion video programming, the Petitioner shall provide a second local access channel for use by the Township.
14. The Petitioner maintains and shall continue to maintain fully equipped and operational local production studios in Union Township and Woodbridge Township for the creation of local and access programming.

15. Within 180 days of the date of issuance of this Certificate, the Petitioner shall provide to the Township a capital contribution in the amount of \$80,000.00 for production equipment. Upon payment, the Petitioner shall provide the Office of Cable Television with proof of satisfaction of this obligation.
16. Within 180 days of the date of issuance of this Certificate, the Petitioner shall provide to the Township an editing package with an estimated value of \$5,000.00. Upon delivery, the Petitioner shall provide the Office of Cable Television with proof of satisfaction of this obligation.
17. The Petitioner shall provide or continue to provide the standard installation and monthly basic cable television service, free of charge, to each school, public and private, elementary, intermediate and secondary, and each municipal facility that is receiving service as of the date of this Certificate. In order to receive free installation, the facility must be within 200 feet of the Petitioner's active cable television plant. Upon completion of the new municipal building and police headquarters, the Petitioner shall transfer service from the current municipal building and police headquarters to the newly constructed facilities. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the Township. Monthly service charges shall be waived on all additional outlets.
18. The Petitioner shall provide free installation of one outlet of Internet service via high speed cable modem to one non-networked computer in the public library. In order to receive free installation, the facility must be within 200 feet of the Petitioner's active cable television plant. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the Township. Monthly service charges shall be waived on all additional outlets.

Based upon these findings, the Board **HEREBY CONCLUDES**, pursuant to N.J.S.A. 48:5A-17(a) and 28(c), the Petitioner has the municipal consent necessary to support the petition, that such consent and issuance thereof are in conformity with the requirements of N.J.S.A. 48:5A-1 et seq., that the Petitioner has complied or is ready, willing and able to comply with all applicable rules and regulations imposed by or pursuant to State or federal law as preconditions for engaging in the proposed cable television operations, that the Petitioner has sufficient financial and technical capacity, meets the legal, character and other qualifications necessary to construct, maintain and operate the necessary installations, lines and equipment, and is capable of providing the proposed service in a safe, adequate and proper manner.

Therefore, the Petitioner is **HEREBY ISSUED** this Renewal Certificate of Approval as evidence of Petitioner's continued authority to construct and operate a cable television system within the entirety of the Township.

This Renewal Certificate is subject to all applicable State and federal laws, the rules and regulations of the Office of Cable Television, and any such lawful terms, conditions and limitations as currently exist or may hereafter be attached to the exercise of the privileges granted herein.

The Petitioner shall adhere to the standards set forth by the Federal Communications Commission's rules and regulations, 47 C.F.R. §76.1 et seq., including but not limited to, the technical standards 47 C.F.R. §76.601 through §76.630. Any modifications to the provisions thereof shall be incorporated into this Certificate.

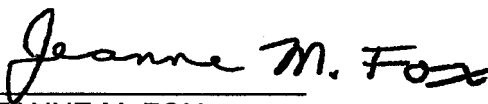
Failure to comply with all applicable laws, rules, regulations and orders of the Board or Office of Cable Television and/or the terms, conditions and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to and enforceable unless specific waiver is granted by the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.


This Certificate shall expire 15 years from the date of its issuance.

DATED: 9/13/07

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT

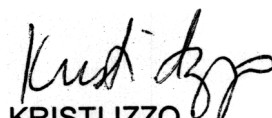

FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

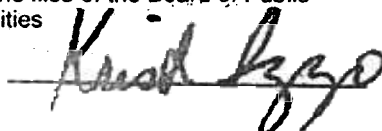
Christine V. Bator

CHRISTINE V. BATOR
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



APPENDIX "I"
OFFICE OF CABLE TELEVISION
LINE EXTENSION POLICY

COMCAST OF NEW JERSEY II, LLC
TOWNSHIP OF LIVINGSTON

A cable operator is required to absorb the cost of extensions to the system in the same proportion that the extension is to the remainder of the system.

Actual subscribers served by the extension are required to absorb the remainder of the cost.

If new subscribers are added to the extension the cost is adjusted and those who previously paid receive an appropriate rebate.

- | | | |
|---|---|---|
| 1. <u># of homes in extension</u>
mileage of extension | = | homes per mile (HPM) of
extension |
| 2. <u>HPM of extension</u>
Minimum HPM that
company actually
constructs in the
system * | = | ratio of the density of
the extension to the
minimum density which the
company constructs in the
system ("A") |
| 3. Total cost of building
the extension times "A" | = | company's share of
extension cost |
| 4. Total cost of building
extension less company's
share of extension cost | = | total amount to be
recovered from
subscribers |
| 5. Total amount to be
<u>recovered from subs</u>
Total subscribers in extension | = | each subscriber's share |

In any case, the company shall extend its plant along public rights of way to:

All residences and businesses within 150 aerial feet of the operator's existing plant at no cost beyond the normal installation rate.

2. All residences and businesses within 100 underground feet of the operator's plant at no cost beyond the normal installation rate.

* The minimum HPM that the company actually constructs in the system or municipality is the minimum number of homes that the company has historically constructed at its own cost. This is a function of the operator's break-even point and its rate of return. Unbuilt systems will use the primary service area rather than construction.

The operator's installation policies shall apply to construction beyond the public right of way.

Detailed accounting and/or financial information to support the minimum HPM shall be supplied to the Office for its approval in such form as required. The minimum HPM shall be updated as appropriate.

When a request for service is received, and unless good cause is shown, cable companies shall:

1. Provide a written estimate within 30 days of such a request.
2. Begin construction within 60 days of receipt of any deposit monies from potential subscribers.
3. Complete construction within six months of receipt of any deposit monies from potential subscribers.
4. Inform each home passed along the extension of the potential costs for subscribers.

Subscribers who pay for an extension shall be entitled to rebates in the following manner:

1. If the company acquires new subscribers subsequent to the initial calculation of step 5 above, the formula will be adjusted and those who have previously paid for the extension will be entitled to an appropriate rebate. In no event shall the amount of the rebate exceed the subscriber's contribution.
2. The company shall keep accurate records of the cost of the extension, the amounts paid by subscribers and any appropriate adjustments.
3. The company shall notify subscribers in the extension of their rights and responsibilities concerning the extension.
4. Once an individual dwelling has paid its share of the extension cost future reconnections or installations shall be made at the company's standard rates.
5. After a period of five years from the installation of the first dwelling unit in the extension no further adjustments shall be made. Installations after five years shall be at the company's standard rate.
6. Once a subscriber is installed, that person shall not normally be entitled to a refund of any monies paid for the installations, except in accordance with the rebate procedure outlined in this policy.

Definitions

Primary Service Area

The Primary Service Area (PSA) can be an entire municipality, but in many instances the PSA is a limited area within a community outside of which a line extension policy may apply. The PSA is depicted by a franchise map and narrative, presented and recorded during the franchise proceedings. It normally remains a fixed geographic area throughout the life of the franchise.

Line Extension Survey

Potential subscribers residing outside the PSA who request service are entitled to an estimate of their share of the cost to secure service. When conducting a survey and estimating costs, a cable company should factor in all potential subscribers who could practicably be included in the extension and give consideration to apparent residential construction in areas contiguous to the proposed extension.

SERVICE LIST

Richard P. DeAngelis, Jr.
Stryker, Tams and Dill
Two Penn Plaza East
Newark, NJ 07105

Glenn Turtletaub
Township Clerk
Township of Livingston
357 South Livingston Avenue
Livingston, NJ 07039-3994

Charles L. Smith, III, Area Director
Government and Community Affairs, Comcast
Comcast
800 Rahway Avenue
Union, NJ 07083

Babette Tenzer
Deputy Attorney General
Division of Law
124 Halsey Street
Newark, NJ 07102

Celeste M. Fasone, Director
Board of Public Utilities
Office of Cable Television
Two Gateway Center
Newark, NJ 07102

Karen A. Marlowe
Administrative Analyst I
Board of Public Utilities
Office of Cable Television
Two Gateway Center
Newark, NJ 07102